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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/645,127

08/21/2003

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08/20/2007

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EXAMINER

WORLOH, JALATEE

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

08/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/645,127	<b>Applicant(s)</b> ZMUDZINSKI ET AL.	
	<b>Examiner</b> Jalatee Worjloh	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-27-07 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim one recites "terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application"; however, no request was previously made to verify execution of the application. How can a response be provided if there is not a request? Please amend for clarity.

4. Claims 1-5 and 7-12 have been examined.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0071278 to Simelius in view of US Publication No. 2006/0154710 to Serafat.

Referring to claim 1, Simelius discloses execution of an application (i.e. first digital content) on a master device (i.e. parent client) by allocating a master license (i.e. parent voucher) and at least one shareable license (i.e. child vouchers) to the master cellular telephone (see paragraph [0027] – the parent client act as a holder of the parent voucher as well as a child client using one or more of the child vouchers & [0015] – a cellular telephone may be), and enabling execution of an application (i.e. second digital content) on a shareable device (i.e. client) by executing the application on the master cellular phone (paragraph [0014] – enable the parent client to access the first digital content from the content provider and [0035] – the first child client accesses the second digital content using the voucher) and by allocating the shareable license to the shareable device, wherein the shareable device comprises a second cellular telephone (see paragraph [0012] – parent client communicates one or more first child vouchers to one or more child clients and paragraph [0015] – a cellular telephone may be). See paragraph [0120]. Simelius does not expressly disclose a multi-player game application and terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master cellular telephone. Serafat discloses multi-player game application and that the concept of terminating current execution of the application on a shareable device if the master is not executing the application is old and well known (see paragraph [0020]). As for verifying the current execution, this is an inherent step. Notice, some

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type of verification must have occurred since the game for the shareable device cancels if the master device is not running the application. In order to cancel the game based on this condition verification must occur. At the time the invention was made, it would have been obvious one of ordinary skill in the art to modify the method disclose Simelius to include multi-player game application and that the concept of terminating current execution of the application on a shareable device if the master is not executing the application. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized execution of the game.

Referring to claim 2, Simelius discloses allocating a plurality of shareable licensees including the shareable license to the master cellular telephone (see paragraph [0027] – the parent client act as a holder of the parent voucher as well as a child client using one or more of the child vouchers & paragraph [0015]).

Referring to claim 3, Simelius discloses allocating the plurality of shareable licenses to a corresponding plurality of shareable device (see paragraph [0012] – parent client communicates one or more first child vouchers to one or more child clients).

Referring to claim 7, Simelius discloses discovering the existence of the master cellular telephone and the application by the shareable device and receiving the second application by the shareable device (see claim 1 above).

Referring to claim 8, Simelius discloses enabling execution of an application (i.e. digital content) on a master device (i.e. parent client) by allocating a master license (i.e. parent voucher) and at least one shareable license (i.e. child vouchers) to the master device (see paragraph [0027] – the parent client act as a holder of the parent voucher as well as a child client using one or more of the child vouchers). As for the step of enabling execution of the application (i.e. digital

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content) on a sharable device by allocating the shareable license to the shareable device only for so long as the application is being executed on the master device, this is an inherent step (see paragraphs [0120] & [0121]). Simelius teaches streaming digital content from parent to client. It is known in the art that when content/media is streamed, when the streaming server stops or is interrupted the client or receiver will also terminate. Throughout the streaming process, the receiving server and/or receiver checks if the streaming server is sending data; therefore, the shareable device will receive the license “only for so long as the application is being executed on the master device”).

Referring to claim 9, Simelius disclose storing a master license code (i.e. content key) associated with master license in the master device (see paragraph [0125] & claim 21) and storing a shareable license code (i.e. content key) associated with the shareable license in the shareable device (see paragraph [0028] & claim 21).

Referring to claim 10, Simelius discloses augmenting the application to include an application code (i.e. content key) to check against a master license code stored in the master device (see paragraph [0014]).

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius and Serafat as applied to claim 1 above, and further in view of US Publication No. 2002/0138441 to Lopatic.

Referring to claim 4, Simelius discloses the master cellular telephone and an application (see claim 1 above). Simelius does not expressly disclose receiving a query at the master device to determine current execution of the application. Lopatic discloses receiving a query at the

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master device to determine current execution of the application (see paragraph [0018] – the execution of each individualized software product is monitored and paragraph [0167] – the license server receives a request including identification information to run the software product and searches for a license matching the identification information). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Simelius to include the step of receiving a query at the master device to determine current execution of the application. One of ordinary skill in the art would have been motivated to do this because it controls the transfer of licenses (see Lopatic paragraph [0018]).

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius and Serafat as applied to claim 1 above, and further in view of US Publication No. 2005/0102240 to Misra et al.

Simelius discloses a shareable device and a first application (see claim 1 above). Simelius does not expressly disclose receiving a response at the shareable device to verify the current execution of the first application. Misra et al. discloses receiving a response (i.e. the challenge) at the sharable device to verify the current execution of the first application (see paragraph [0108] –the client requests a license; in response, the license server initiates a client challenge to determine who the client is). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose to include the step of receiving a response at the shareable device to verify the current execution of the first application. One of ordinary skill in the art would have been motivated to do this because it

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determines who the client is and what platform it is running (see paragraph [0108] of Misra et al.).

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius and Serafat as applied to claim 8 above, and further in view of US Publication No. 2004/0039916 to Aldis et al. (“Aldis”)

Simelius discloses shareable device and master device (see claim 8 above). Simelius does not expressly disclose receiving an option to upgrade the shareable device to operate as a second master device. Aldis discloses receiving an option to upgrade the shareable device to operate as a second master device (see paragraph [0147] – Aldis’ system allows client’s to update their licenses for server-type products; since, this option is available can is suggested that a option to upgrade may be received). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simelius reference to include the step of receiving an option to upgrade the shareable device to operate as a second master device. One of ordinary skill in the art would have been motivated to do this because it provides more flexibility to the clients.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius and Serafat as applied to claim 8 above, and further in view of Lopatic.

Referring to claim 12, Simelius discloses execution of an application on the shareable device (see claim 8 above). Simelius does not expressly disclose terminating the execution of the application on the shareable device by revoking the sharable license. Lopatic discloses terminating the execution of the application on the shareable device by revoking the sharable



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license (see paragraph [0032] – Lopatic teaches continuing an execution of the individual download copy if a permission to run is obtained and aborting the execution otherwise and claim 6 –the license has an expiration date that indicates a date on which the software license will expire) modify the method disclose by Simelius to include the step of terminating the execution of the second application on the shareable device after failing to receive a response verifying current execution of the first application on the master device. One of ordinary skill in the art would have been motivated to do this because it protects the rights of the software supplier and control the transfer of licenses (see paragraphs [0017] &[0018] of Lopatic).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

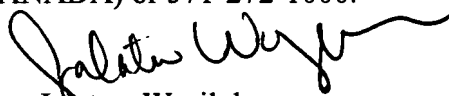
- EP 1066868 to Rautila et al. discloses multi-player game system using mobile telephone and game unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jaltee Worjloh  
Primary Examiner  
Art Unit 3621

August 14, 2007